ORDER NO. 78534

IN THE MATTER OF THE INQUIRY INTO THE PAYPHONE TARIFFS OF BELL ATLANTIC MARYLAND, INC.	* * * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND CASE NO. 8763

I. INTRODUCTION

Before the Public Service Commission of Maryland ("Commission") is a joint motion ("Joint Motion") of Verizon Maryland Inc. ("Verizon Maryland"), Atlantic Payphone Association ("APA") and Davel Communications, Inc. ("Davel") (collectively, the "Settling Parties") for approval of their Joint Stipulation and Agreement of Settlement ("Stipulation and Settlement") resolving all issues and disputes between the Settling Parties in the above-captioned case. For the reasons set forth below, the Commission approves the Stipulation and Settlement herein and direct Verizon Maryland to file appropriate tariff revisions within five business days from the date of this order.[1]

II. BACKGROUND

The issues resolved by the Stipulation and Settlement arose on May 19, 1997 when Verizon Maryland (then Bell Atlantic Maryland, Inc.) made a filing with this Commission asserting that its tariff rates for services provided to payphone providers complied with Federal Communications Commission ("FCC") requirements for payphone services. Davel (then Peoples Telephone Company, Inc.) and other parties protested the filing and the matter was set for hearing. On December 9, 1998, the Proposed Order of Hearing Examiner ("Proposed Order") was issued.

[1] The Settlement, which is identified as Appendix A, is incorporated by reference herein.

Exceptions to the Proposed Order were filed. On February 27, 2001, by Order No. 76787 ("Payphone Order"), the Commission affirmed the Hearing Examiner's findings that Verizon Maryland had not shown that its payphone line and usage rates satisfied the FCC's new services test ("NST") requirements. In the Payphone Order, the Commission directed, *inter alia,* that a Phase II of the case be instituted in which Verizon Maryland would present cost studies and documentation supporting its payphone charges in accordance with the NST.

In May 2002, the Commission encouraged the parties to resolve the dispute through settlement negotiations.[2] After notice to all of the parties in the proceeding, Commission Staff hosted a meeting for interested parties at the Commission's offices on July 17, 2002.

Through discussions at the July 17, 2002 meeting and through subsequent negotiations, the Settling Parties agreed to the Stipulation and Settlement. In those discussions and negotiations, the Settling Parties presented and discussed cost estimates and usage data relating to the appropriate rate for the COCOT line and usage. Subject to the provisions in the Stipulation and Settlement, the Settling Parties agreed that the proposed COCOT's monthly flat rate of $20.50 is permissible under applicable state and federal law.

III. THE STIPULATION AND SETTLEMENT

The Settling Parties signed the Stipulation and Settlement as of March 5, 2003, and Verizon Maryland filed the document with the Commission on April 7, 2003. The terms and conditions of the Stipulation and Settlement provide, among other things, that

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[2] By letter order dated May 24, 2002, the Commission notified all interested parties in Case No. 8763 that it was directing the Technical Staff to arrange for and participate in settlement discussions with the goal of presenting the Commission with a settlement agreement on unresolved issues in the proceeding.

after the Commission approves the Stipulation and Agreement, Verizon Maryland will file revisions to its tariff rates for Customer-Provided Coin Operated Telephone Service (COCOTS) lines and local call usage over such lines to reflect a flat unmeasured monthly rate of $20.50 that will apply uniformly to all geographic areas in Maryland served by Verizon Maryland.

The stipulated flat monthly COCOTS rate of $20.50 will replace in their entirety the Rate Group A and Rate Group B monthly recurring rates for COCOTS lines (including applicable monthly EUCL, Touchtone, screening and blocking charges) and related local message and local usage charges now set forth in Section C of Verizon Maryland's Local Exchange Services Tariff P.S.C. – Md. – No. 202, Section 4D ("Pay Telephone Lines") and other sections referenced therein. The Stipulation and Settlement provides that the proposed rate shall remain in effect for two years from the date of Commission approval. However, if after the first twelve months from the effective date of the revised tariff rate, the average monthly usage per COCOTS line has declined by fifteen (15%) per cent or more since October 31, 2002, the Settling Parties shall review the appropriateness of the $20.50 rate and endeavor in good faith to resolve whether a prospective rate adjustment is warranted. If such resolution cannot be reached within sixty (60) days after a written proposal for rate adjustment is served by Davel or APA on Verizon Maryland, then any of the Settling Parties may apply to the Commission for review of the dispute. In the event such review is requested, no Settling Party may argue that the revised rate specified herein did not meet the new services test or applicable federal law prior to such request for review, but Davel, APA and APA PSPs may argue that the rate does not meet such requirements on a prospective basis as of the date such review is requested.

The Stipulation and Settlement appears to reflect a balancing of the Settling Parties' interests, including their interest in avoiding the burden and expense of a protracted ratemaking proceeding.

IV. THE PUBLIC INTEREST

Approval of the proposed reduction in payphone line rates is likely to promote competition among PSPs and the widespread deployment of payphones in Maryland, consistent with the Congressional objectives of section 276 of the Communications Act of 1934, as amended. The proposed rate, which will be in effect throughout the state, will benefit Maryland consumers by ensuring more convenient access to payphones provided by payphone service providers who will be able to obtain services from Verizon Maryland at the revised and reduced rates. The public interest also is served by the Commission conserving resources that otherwise would be required to resolve the settled issues in the Phase II proceeding.

V. SCOPE

The Stipulation and Settlement resolves the issues pending in Case No. 8763 between Verizon Maryland, Davel and the APA PSPs. Specifically, the Stipulation and Settlement resolves all issues regarding "Usage and Measured Service Rates" and "Station Controlled Coin Line ("SCCL") Charges" addressed in the Commission's February 27, 2001 Order.

VI. FINDINGS AND CONCLUSIONS

The Commission finds that the proposed Stipulation and Settlement is in the public interest. Further, the Commission finds that the issues addressed in the Payphone Order relating to usage and measured service charges and SCCL charges are appropriately resolved.

WHEREFORE, for the reasons set forth herein, the Stipulation and Settlement is approved.

IT IS THEREFORE, this 25th day of June, in the year Two Thousand and Three, by the Public Service Commission of Maryland,

ORDERED: (1) That the Joint Motion is granted and that the Stipulation and Settlement is approved;

(2) That Verizon Maryland file with the Commission the tariff revisions contemplated by the Stipulation and Settlement within five business after the date of this order; and

(3) That, subject to the tariff revisions referenced above becoming effective, the Commission hereby rescinds the requirement for a Phase II proceeding.

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COMMISSIONERS